

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

Kevin J. Rogers

v.

Civil No. 16-cv-111-SM

Ora Schwartzberg and Edythe A. Murphy<sup>1</sup>

**REPORT AND RECOMMENDATION**

On May 26, 2016, this court stayed this action, with respect to the only claim that survived preliminary review (Claim 1(c)), and directed pro se plaintiff, Kevin J. Rogers, to file status reports here, concerning pending state proceedings relating to that claim, every 90 days. See May 26, 2016, Order (doc. no. 4). When Rogers failed to file his first status report in August 2016, this court directed Rogers either to file that report or show cause why this action should not be dismissed. See Aug. 26, 2016, Order. Rogers has not responded to either Order. Cf. Rosario-Diaz v. Gonzalez, 140 F.3d 312, 315 (1st Cir. 1998) ("litigants have an unflagging duty to comply with clearly communicated case-management orders, and this duty extends even to litigants who proceed pro se").

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<sup>1</sup>The remaining defendants have been dropped from this case, as all claims against them have been dismissed. See June 29, 2016, Order (doc. no. 6).

Rogers appears to have abandoned this case. Accordingly, the district judge should dismiss the claim remaining in this action, without prejudice, and close this case, because of Rogers's failure to prosecute and failure to comply with two court orders. See Fed. R. Civ. P. 41(b).

Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See Garayalde-Rijos v. Mun. of Carolina, 747 F.3d 15, 21-22 (1st Cir. 2014).



Andrea K. Johnstone  
United States Magistrate Judge

October 5, 2016

cc: Kevin J. Rogers, pro se